IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

W.A.No.2261 of 2007

AGAINST THE JUDGEMENT IN W.P.(C).NO.25613/2007 DATED 05/09/2007

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APPELLANT: PETITIONER IN W.P.(C):-

FEBIN K.A., AGED 22 YEARS,
D/O. ABDUL KARIM, KINATTINKAL HOUSE,
KODUNGALLUR.

BY ADV. SRI.E.S.M.KABEER.

RESPONDENT: RESPONDENT IN W.P.(C):-

THE COCHIN UNIVERSITY OF SCIENCE & TECHNOLOGY,
REPRESENTED BY ITS DIRECTOR.

BY STANDING COUNSEL SRI.A.A.ABUL HASSAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No. 2261 of 2007

Dated this the 17th day of September, 2007.

J U D G M E N T

H.L.Dattu, C.J.

This appeal arises out of the order passed by the learned Single Judge in W.P.(C).No.25613 of 2007 dated 5th September, 2007. The facts in brief are as under:

2. The petitioner has passed BBA Degree examination through Distance Education Programme of the Mahatma Gandhi University. She sought for admission to the M.B.A. Course conducted by the respondent, Cochin University of Science & Technology (University for short).

3. It is stated in the petition that after the written test and group interview, the petitioner was assigned 21st Rank in the list for admission to the MBA Course for the academic year 2007 of the respondent University.

4. The respondent has also issued a memo dated 9th August, 2007 informing the petitioner to participate in the Counseling and Admission to Management Programmes 2007 (MBA Course). Thereafter, by yet another order passed in Ext.P8, the respondent has informed the petitioner that, since she has obtained the basic degree through Distance Education Programme which is not recognized by the University, she is not entitled for admission to the MBA Course. Aggrieved by Ext.P8 order, the petitioner was before this Court in W.P.(C).No.25613 of 2007. The learned Single Judge, keeping in

view the notification issued by the respondent University for the Academic Admissions 2007-2008 has rejected the writ petition. That is how the petitioner in the writ petition is before us in this appeal. In order to appreciate the contentions canvassed by the petitioner and her learned counsel, the notification issued for Academic Admissions 2007 of the respondent University (Ext.P1) and the orders passed by the respondent (Ext.P8) requires to be extracted. They are as under:

"***Academic Admissions 2007***
Key Information
Who can Apply for CAT?

All Academic Admissions are based on the Merit of the Applicants as determined through an Admission Test conducted for the purpose subject to satisfying other Prescribed Eligibility Criteria. (See section on "Eligibility Criteria")

Foreign Nationals are exempted from the above requirement of writing the Admission Test and may obtain details of the Application Procedures from the Unit for International Relations and Academic Admissions of the University. (See section on "International Students").

Students who have passed the Qualifying Examination (prescribed under Eligibility Criteria) shall be eligible to apply for the CAT. (Degree obtained through Distance Education Programmes other than through IGNOU are not recognized by the Regulations of the University in force).

However, Students who have passed all the Courses except those prescribed for the final Year/Semester of the Qualifying Degree/Diploma./Certificate may be considered for admission if they have appeared or are appearing for all the Examinations in the Courses of the Final Year/Semester of the Qualifying Degree/Diploma/Certificate and if they produce at the time of Group Discussion/Interview/Counseling, whichever is held

earlier, the Original Mark Lists of all Relevant and Previous, (including the penultimate) Examinations, the Transfer Certificate and a Certificate from the Head of the Institution Last attended that they have completed the Programme of study and have appeared or are appearing for all the examinations in the courses of the final year/semester of the Qualifying Degree/Diploma/Certificate and that their Results are awaited, failing which they will not be permitted to attend the Group Discussion/Interview/Counseling as the case may be.

If such Students admitted to a Programme of Study in the University fail to attain the Prescribed Eligibility for Admission before the date of Registration for the Regular I Semester Examination of the Programme to which they were granted Admission, they shall not be permitted to continue the programme and shall be summarily removed from the Rolls of the University.

These concessions shall not be applicable to students who have failed in their Qualifying Examination or who have failed to acquire the required Percentage of Marks and subsequently have appeared for Supplementary/Improvement Examination (s).

However for Admissions to B.Tech., 5 year Integrated M.Sc. In Photonics, and 5 year LL.B (Hons.) Programmes, the Mark List obtained in the Qualifying Examination shall be produced at the Time of Admission. Those who fail to produce Mark List shall not be considered for Admission.

Admission of Students, who pass the Plus Two or equivalent Qualifying Examination in subsequent chances to the B.Tech. Programmes of the University in the same Year shall be governed by the current Rules prescribed in the matter by the Government of Kerala."

"On verification it was found that the candidate Febin K.A. Roll No.138549 has obtained her degree through distance education. As per Notification for academic admission 2007, candidates who have acquired their qualifying degree through distance education programmes are not eligible for admission. Hence candidate Febin K.A. Roll No.138549 is not admitted for the Management Programme during the counseling held on 20/8/07. This is issued as per the oral request of the candidate. "

5. The notification issued by the University for Academic Admissions of 2007 would clearly indicate that students who have passed the Qualifying Examination are eligible to apply for CAT. Therefore, it is stated that degrees obtained through Distance Education Programmes other than through IGNOU are not recognized by the Regulations of the University in force. That only means it is only those students who have obtained degree through Distance Education Programmes in IGNOU are recognized by the University and others who have obtained the degree through Distance Eduction Programmes is not recognized by the University for the purpose of Academic Admissions for the academic year 2007-2008.

6. Keeping in view the orders passed by the respondent and also the conditions prescribed in the notification, let us look at the facts pleaded by the petitioner in the instant case.

7. In the instant case, the petitioner admittedly has obtained her BBA Degree through Distance Education Programme of the Mahatma Gandhi University. The said Degree is not recognized by the respondent University. In view of the prospectus/notification issued by the respondent University, the petitioner, as a matter of fact cannot seek any admission in the respondent University in the MBA Course. For the reasons best known the petitioner has not questioned certain clauses mentioned in the notification issued by the respondent University. Since the petitioner has not questioned certain clauses in the notification, it may not be possible for us to grant any relief to her by

interfering with the orders passed by the respondent University in Ext.P8. The University has merely followed the prospectus/notification issued by them for admission to the MBA Course. In that view of the matter we do not see any error in the order passed by the respondent University which would call for our interference. Accordingly, the appeal requires to be rejected and it is rejected.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS